

Serial No. 10/087,757

REMARKS

In a Corrected (non-final) Action, dated May 30, 2003, the Examiner corrected a number of errors in a previous Official Action. The Corrected Action provided applicant a shortened one month period of time for response, which may be extended up to the full six month statutory period.

The six month statutory period for response to the Corrected Action expired on November 30, 2003, a Sunday, and thus extended to Monday, December 1, 2003.

On December 1, 2003, an amendment was filed by facsimile in response to the Corrected non-final Action, with appropriate certification. The filed papers included a sixteen page amendment, a two page exhibit including two marked-up drawing sheets, a one page petition for extension of time, a one page Form PTO 2038 in payment of the extension fee, and a one page cover sheet for a total of 21 pages.

After a first, unsuccessful, transmission, a first Auto-Reply Facsimile Transmission was received, confirming receipt of three pages at 9:11 PM on 12/1/2003. Following a re-transmission of the entire document, a second Auto-Reply Facsimile Transmission was received, confirming receipt of 21 pages at 9:14 PM on 12/1/2003. Copies of both confirmation transmissions are enclosed.

Also enclosed is a redacted copy of a credit card statement, confirming that the fee of \$2,010 for a five month extension of time was charged (and received) by the USPTO on 12/2/2003. Only the transaction relevant to the USPTO is shown.

It is accordingly submitted that the Notice of Abandonment is in error and that the above identified application is, in fact, pending. To the extent necessary, the present paper should be considered a Petition to correct an error on the part of the Patent and

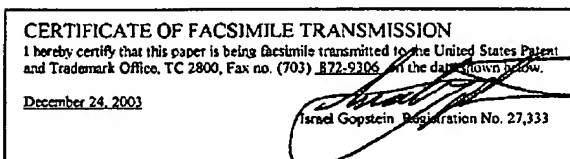
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Trademark Office, in misplacing a properly and timely transmitted Response to the Action of May 30, 2003.


Inasmuch as the Office has apparently misplaced the Response, a copy of the same is enclosed. It should be noted that the copy includes the aforementioned cover sheet, the petition for extension of time, the sixteen page amendment and the two page exhibit including marked-up drawings.

However, inasmuch as the fee has already been received by the USPTO, and to avoid confusion as to the manner of treating a duplicate of a previously filed and implemented form PTO-2038, it should be noted that the attached documents do NOT include a copy of the same.

In view of the foregoing, it is respectfully requested that the erroneous Notice of Abandonment be rescinded, and that the above identified application be properly reinstated to pending status. To expedite resolution of any remaining issues, the Examiner is respectfully requested to contact the undersigned by telephone at the below listed local telephone number if any further comments, questions or suggestions arise in connection with the application.



Respectfully submitted,


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